

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Ridge	Team: Squad #5	CCRB Case #: 201903012	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/06/2019 6:56 PM	Location of Incident: East 195th Street and Webster Avenue	Precinct: 52	18 Mo. SOL 10/6/2020	EO SOL 5/23/2021	
Date/Time CV Reported Sun, 04/07/2019 5:51 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 04/07/2019 5:51 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Saline	12924	962081	052 PCT
2. POM Edward Barrett	09973	956415	052 PCT
3. SGT Jonathan Rivera	02049	949550	052 PCT
4. An officer			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Michelle Almanzar	01452	956461	052 PCT
2. POM Steven Torres	19874	962846	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Saline	Abuse: Police Officer Anthony Saline stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B. An officer	Abuse: An officer questioned § 87(2)(b)	
C.POM Anthony Saline	Abuse: Police Officer Anthony Saline searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
D.SGT Jonathan Rivera	Abuse: Sergeant Jonathan Rivera searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On April 7, 2019, § 87(2)(b) filed this complaint with the CCRB via the call-processing system.

On April 6, 2019, at approximately 6:56 p.m., Police Officer Anthony Saline of the 52nd Precinct stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants at the intersection of East 195th Street and Webster Avenue in the Bronx (**Allegation A: Abuse of Authority**, § 87(2)(g)). An officer allegedly questioned § 87(2)(b) (**Allegation B: Abuse of Authority**, § 87(2)(g)). PO Saline and Sergeant Jonathan Rivera, also of the 52nd Precinct, searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants (**Allegations C-D: Abuse of Authority**, § 87(2)(g)). The officers arrested § 87(2)(b) and § 87(2)(b) for § 87(2)(b) (BR10).

§ 87(2)(g)

The investigation obtained one clip of BWC footage each from PO Saline, Sgt. Rodriguez, PO Barrett, Police Officer Michelle Almanzar, and Police Officer Steve Torres (BR01-05, summarized at BR16). All references to video evidence below refer to the time stamp in the video player, not the on-screen clock embedded in the video itself.

On April 11, 2019, this case was reassigned from Inv. Tahreem Khan to Inv. Yolexis Rodriguez. On June 20, 2019, this case was reassigned from Inv. Rodriguez to Inv. Andrew Ridge.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Anthony Saline stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Saline stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(b) was driving the vehicle at the time of the stop. It is also undisputed that the vehicle had some form of visible physical damage.

§ 87(2)(b) recounted that the officers did not explain why they pulled over the vehicle (BR06). However, before the vehicle stop, § 87(2)(b) noted that the car's right rearview mirror and taillight were damaged and that the front passenger window did not roll down. § 87(2)(b) did not further specify how precisely the mirror and taillight were damaged. § 87(2)(b) did not note that the vehicle had any other damage and did not observe § 87(2)(b) commit any traffic violations.

§ 87(2)(b) did not wish to participate in the investigation and did not provide any testimony. § 87(2)(b) provided a very brief phone statement, but then did not appear for an interview and did not respond to further contact attempts (BR17). § 87(2)(b) brief phone statement did not contain any information regarding the reason for the vehicle stop or any physical damage to the vehicle.

PO Saline recounted that as he drove the police vehicle in which he, Sgt. Rivera, PO Almanzar, and PO Barrett rode, he noticed that the driver side front windshield of the car in which § 87(2)(b) rode was cracked (BR07). PO Saline did not observe any other issues with the car. PO Saline could not recall whether he stopped the car for any other reason.

Sgt. Rivera recounted that someone among the officers whom he believed was PO Saline noticed that the car committed a traffic violation (BR15). Sgt. Rivera could not remember what the traffic violation was, nor could he remember there being any other reason for stopping the car. PO Almanzar could not remember whether the officers in her police vehicle or another pulled over the car, whether other officers were involved in the incident, or why the car was pulled over (BR08). However, she did recall that § 87(2)(b) remarked during the incident that his girlfriend had

“messed up” the vehicle and that the vehicle was broken in some way.

The video clips from PO Saline, Sgt. Rivera, PO Almanzar, and PO Barrett’s BWCs all begin after they have approached the vehicle. PO Torres’ BWC video begins after the other officers have taken the civilians into custody. None of the BWC clips offers a clear view of the front windshield of the civilians’ vehicle, and the videos do not capture any other manifest damage to the car.

§ 87(2)(g)

It is unlawful to operate a motor vehicle upon the public highways which is equipped with any glass which is so broken, fractured, or discolored as to distort visibility. NY Vehicle and Traffic Law § 375 (22) (BR09).

§ 87(2)(g)

Allegation (B) Abuse of Authority: An officer questioned § 87(2)(b)

§ 87(2)(b) recounted that after the officers asked everyone to get out of the car, § 87(2)(b) and § 87(2)(b) went to the back of the car, where PO Saline asked § 87(2)(b) if the vehicle, which was a red 2017 Mercedes-Benz, was stolen and how he could afford it.

§ 87(2)(b) recounted that he knew that the officer who questioned § 87(2)(b) was PO Saline because he learned of PO Saline’s name when he was told that PO Saline was the arresting officer at the 52nd Precinct stationhouse. § 87(2)(b) provided no additional justification for believing that the officer who questioned § 87(2)(b) was PO Saline. The officer who questioned § 87(2)(b) was one of two male officers who later searched the vehicle.

As noted below, the investigation determined that PO Saline and Sgt. Rivera were the two officers who searched the vehicle.

However, § 87(2)(b) was unable to provide physical descriptions of PO Saline and Sgt. Rivera that clearly differentiated them from each other, leaving open the distinct possibility that the officer who allegedly questioned § 87(2)(b) was in fact Sgt. Rivera. Further, PO Saline, Sgt. Rivera, and PO Almanzar all could not recall there being any indication that the vehicle was stolen, nor could PO Saline or Sgt. Rivera remember asking the occupants if the vehicle was stolen.

The BWC video footage did not capture any such interaction between PO Saline and § 87(2)(b).

§ 87(2)(b) § 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Anthony Saline searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (D) Abuse of Authority: Sergeant Jonathan Rivera searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Saline and Sgt. Rivera searched the vehicle. It is undisputed that at least one of the officers on scene remarked upon the presence of an odor of marijuana at the outset of the stop. It is further undisputed that § 87(2)(b) had smoked marijuana prior to the incident, and that he told the officers as much before they searched the vehicle. It is also undisputed that,

during a later search at the stationhouse, officers found a quantity of marijuana secreted on the person of one of the occupants of the vehicle.

At his in-person interview, § 87(2)(b) denied that the vehicle smelled of marijuana. He also denied there was any marijuana or other drugs in the vehicle. He denied that he had smoked marijuana prior to the incident. He recounted that § 87(2)(b) replied to an officer's remark that the vehicle smelled of marijuana by saying that he had smoked marijuana before getting in the car. § 87(2)(b) was not with § 87(2)(b) when he smoked marijuana, and he thought § 87(2)(b) had smoked approximately 45 minutes before the incident. § 87(2)(b) recalled that one of the officers searched throughout the passenger cabin, and then another officer performed the same search. § 87(2)(b) also recounted that officers felt a bulge on § 87(2)(b) person while searching him at the stationhouse, and that § 87(2)(b) admitted to having marijuana secreted in his underwear and retrieved it himself for the officers.

PO Saline's BWC footage begins after § 87(2)(b) and § 87(2)(b) exited the vehicle, when he and Sgt. Rivera were already leaning into the vehicle through the front doors (BR01). Within approximately 40 seconds in the footage, officers handcuff the men and remark upon the presence of pills in the vehicle. The BWC footage does not capture any additional searching in the vehicle. At no point in any of the BWC clips does anyone mention an odor of marijuana. However, as explained above, none of the BWC clips captured the beginning of the vehicle stop, when § 87(2)(b) recounted an officer remarking upon the odor. At his CCRB interview, PO Saline confirmed that he did not activate his BWC until he was partway through his search of the vehicle.

PO Saline testified that he smelled marijuana as he first approached the vehicle during the stop, though he could not recall if the odor was of burned or unburned marijuana. At the time he instructed the occupants to exit the vehicle, PO Saline saw a loose pill on the floor near the driver's seat, beside a pill bottle with no cap and with its label scratched off. PO Saline also saw another empty pill bottle and approximately 13 loose pills in the driver's door pocket. PO Saline suspected the pills were a controlled substance. PO Saline searched the vehicle because he smelled marijuana and wanted to determine if there was marijuana in the vehicle, in addition to his desire to retrieve the pills. PO Saline did not find any marijuana in the vehicle. He recounted that officers recovered marijuana from § 87(2)(b)'s person during a search at the stationhouse.

Sgt. Rivera could not recall if he smelled marijuana during the incident, and he also did not recall the vehicle search. Viewing PO Saline's BWC footage did not refresh Sgt. Rivera's recollection of his searching the vehicle. PO Almanzar also could not remember if she smelled marijuana during the incident. She stood at the rear with the vehicle's occupants and did not participate in the vehicle search.

§ 87(2)(g)

An officer has probable cause to conduct a warrantless search of a vehicle and its occupants if, during a lawful traffic stop, that officer detects the odor of marijuana smoke. People v. Chestnut, 43 A.D.2d 260 (1974) (BR11).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
[REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- PO Saline has been a member of service for three years and has been a subject in seven CCRB complaints and 19 allegations, none of which was substantiated. § 87(4-b), § 87(2)(g)
- Sgt. Rivera has been a member of service for nine years and has been a subject in 11 CCRB complaints and 22 allegations, none of which was substantiated. § 87(4-b), § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming that PO Saline and the other officers involved in the incident racially profiled him, stopped him without probable or reasonable cause, and falsely arrested him. He sought \$1,000,000 as redress (BR13).
- The Office of Court Administration database shows no record of the criminal cases resulting from § 87(2)(b) and § 87(2)(b) arrests in this incident (BR19).

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) [Redacted]

[Redacted]

- § 87(2)(b) [Redacted]

[Redacted]

[Redacted]

Squad: 5

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date